IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

OP.No. 1669 of 1995(W)

PETITIONER:

SHANKAR.A.,
PRESIDENT, PARENT TEACHERS' ASSOCIATION,
GOVERNMENT HIGH SCHOOL, SHIRIYA, (VIA) KUMBLE,
KASARGODE DISTRICT, RESIDING AT ADKA HOUSE,
P.O. SHIIRIYA, (VIA) KUMBLE, KASARGODE DISTRICT.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. **THE DEPUTY DIRECTOR OF EDUCATION, KASARGODE.**
2. **THE DISTRICT COLLECTOR, KASARGODE.**
3. **THE DISTRICT EDUCATIONAL OFFICER, KASARGODE.**
4. **CIRCLE INSPECTOR OF POLICE, KUMBLE, KASARGODE DISTRICT.**
5. **ABDUL KHADER, SCHOOL LEADER, GOVT.HIGH SCHOOL, SHIRIYA, (VIA) KUMBLE, KASARGODE DISTRICT, REPRESENTED BY HIS FATHER DAMBA KUNIPPA, BENGARA HOUSE, P.O. SHIRIYA, KASARGODE DISTRICT.**
6. **THE HEAD MASTER, GOVT. HIGH SCHOOL, SHIRIYA,(VIA)KUMBALA, KASARGODE DISTRICT.**

BY GOVT.PLEADER SRI. P.A. SALIM

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/01/2007 ALONG WITH OP NO. 10381 OF 1995, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.1669/1995 W

ORDER ON C.M.P.NO.3021/1995 IN O.P.NO.1669/1995 W

DISMISSED

17/01/2007 **SD/- J.B.KOSHY, JUDGE**

SD/- K.P.BALACHANDRAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE LETTER DTD. 3/10/94 ADDRESSED TO THE HEADMASTER, G.H.S.SHIRIYA, BY THE 5TH RESPONDENT AND ANOTHER.**

EXT.P2: **COPY OF THE LETTER DTD. 18/10/94 ADDRESSED TO THE HEADMASTER, GOVT.HIGH SCHOOL, SHIRIYA, BY THE 5TH RESPONDENT AND OTHERS.**

EXT.P3: **COPY OF THE REPORT OF STAFF MEETING HELD ON 11/10/94.**

EXT.P4: **COPY OF THE LETTER DTD. 25/10/1994 FROM THE HEADMASTER, G.H.S.SHIRIYA TO THE 1ST RESPONDENT.**

EXT.P5: **COPY OF THE MINUTES OF THE ALL PARTY MEETING HELD ON 8/11/1994, IN THE COLLECTORATE, KASARGODE.**

/TRUE COPY/

Kss

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

O.P. Nos.1669 & 10381 of 1995

Dated this the 17th day of January, 2007

Judgment

Koshy,J.

The petitioners are stated to be interested in social and political activities. They are questioning paragraph No.2 of Ext.P1 circular in O.P.No.10381 of 1995 issued by the Director of Public Instructions, Thiruvananthapuram which reads as follows:

> "There is no bar to sing Vande Mataram provided all children agree for the same. In case of dispute by a section of pupils, it should not be sung and National Anthem alone should be sung."

No doubt, the song starting with the words 'Vande Mataram', written by Bankim Chandra Chatterjee, is a patriotic song having recognised as a National song. Another song inspiring national spirit starting with the words is 'Sare Jaham Se Acha'. But, rule 9 of Chapter VIII of Kerala Education Rules deals with singing of National Anthem and not National songs. It is true that even though 'Vande Mataram' is a patriotic song, some sections of the community have objections in making it

compulsory as, according to them, it is against their religious teachings.

2. We are not going to consider whether the above apprehension is correct or not, but, the fact was that when the above song was used, there were some objections and Ext.P1 was issued to avoid a conflict and to maintain a peaceful atmosphere in educational institutions. The above circular is not against the Constitution or statutory rights. By Ext. P1, Director of Public Instructions has also allowed to sing 'Vande Mataram', if all the students agree for the same.

3. Petitioners were unable to show us any constitutional or statutory provision making it compulsory to sing 'Vande Mataram' in all the schools. In the absence of any such provisions, we are unable to issue a writ of mandamus making it compulsory to sing 'Vande Mataram' in all schools compulsorily and we are unable to see any constitutional virus or gross illegality in Ext.P1 so as to quash paragraph 2 of Ext.P1

as contended by the petitioners. Therefore, these original petitions are dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

O.P. Nos.1669 & 10381/95

Judgment

Dated:17th January, 2007